

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

NOVARTIS PHARMACEUTICALS	:	
CORPORATION, NOVARTIS AG,	:	
NOVARTIS PHARMA AG, NOVARTIS	:	
INTERNATIONAL PHARMACEUTICAL	:	
LTD. and LTS LOHMANN THERAPIE-	:	
SYSTEME AG,	:	C.A. No. 1:13-cv-00052-RGA
	:	
Plaintiffs,	:	
	:	
v.	:	
	:	
ALVOGEN PINE BROOK, INC. and	:	
ALVOGEN GROUP, INC.,	:	
	:	
Defendants.	:	

**DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT OF NONINFRINGEMENT**

Defendants Alvogen Pine Brook, Inc. and Alvogen Group Inc. (collectively, "Alvogen") respectfully request leave of the Court to file a motion for summary judgment of noninfringement of U.S. Patents No. 6,355,031 ("the '031 patent") and 6,316,023 ("the '023 patent") in C.A. No. 1:13-cv-00052-RGA, which pertains to Alvogen's Abbreviated New Drug Application ("ANDA") for a rivastigmine transdermal system, 4.6 mg/24 hr and 9.5 mg/24 hr dosage strengths ("Alvogen's ANDA Products").

As set out more fully in the Memorandum of Law accompanying this motion, each and every claim of the '031 and '023 patents requires an antioxidant. To prove infringement, Plaintiffs Novartis Pharmaceuticals Corporation, Novartis AG, Novartis Pharma AG, Novartis International Pharmaceutical Ltd. and LTS Lohmann Therapie-Systeme AG (collectively, "Plaintiffs") must therefore prove that the ANDA Products contain an antioxidant. Alvogen's ANDA states that the ANDA Products do not contain an antioxidant. During fact discovery, Plaintiffs stated that future testing by their experts would demonstrate the presence of an

antioxidant in the ANDA Products. Plaintiffs did not provide any expert report to Alvogen by the May 2, 2014 deadline, however, and thus cannot carry their burden of proof. Summary judgment of noninfringement is therefore appropriate.

WHEREFORE, Alvogen respectfully requests that the Court grant its motion for summary judgment of noninfringement.

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